HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

C.R. No.5897 of 2004
Date of decision : 19.02.2007

Shri Surinder Pal and others .....Petitioners

versus

United Church of Northern India Punjab and others ....Respondents

CORAM : HON'BLE MR. JUSTICE HEMANT GUPTA.

Present : Mr.Yogesh Goel, Advocate for the petitioners.
Mr.Sanjay Jain, Advocate for respondent Nos.1,2,4&5.

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ORDER

HEMANT GUPTA, J.

The challenge in the present revision petition is to the order passed by the learned Additional District Judge on 24.9.2004, whereby an application filed by the plaintiff-respondents under Section 92 of the Civil Procedure Code to obtain leave of the Court for institution of the suit, was allowed.

The primary stress of the petitioner against the said order is that there is previous judgment in respect of subject matter of the suit as well as another suit is pending at the instance of the plaintiffs at Mumbai. However, the said facts are not relevant for determining the question whether leave to file the present suit under Section 92 of the Civil Procedure Code is to be granted or not.

It could not be pointed out that the plaintiffs have any interest in the subject matter of the suit property or otherwise and in any manner not competent to invoke the jurisdiction of the Civil Court. Therefore, the learned First Appellate Court has rightly granted leave to the plaintiffs to

file the present suit.

It is open to the petitioner to raise defence as he wants and/or to move an appropriate application before the learned trial Court to seek framing of the issues as and when situation arise for determination of the question raised by the plaintiffs in the present suit. But no cause is shown as to why permission should not be granted. The objections raised by the petitioner are on the merits of the lis and not on the locus standi of the plaintiffs.

Therefore, I do not find any illegality or irregularity in the order passed by the learned First Appellate Court, which may warrant interference of this Court in exercise of its revisional jurisdiction.

Dismissed.

However, it shall be open to the petitioners to raise all the questions sought to be raised in the present petition, in defence. It shall also be open to the plaintiffs to move an appropriate application for treating the issues as preliminary issues. As and when any application is moved or question is raised, the learned trial Court shall decide the same in accordance with law.

(HEMANT GUPTA)
JUDGE

February 19, 2007
**mohinder*